

# EXHIBIT B

**King, Marshall R.**

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**From:** Pergament, Benjamin D. <bpergament@bakerlaw.com>  
**Sent:** Wednesday, November 8, 2017 11:14 AM  
**To:** Herrmann, Gabriel; King, Marshall R.  
**Cc:** Warshavsky, Oren J.; Zeballos, Gonzalo S.; North, Geoffrey A; Hall, Thomas J.; Brett S. Moore (bsmoore@pbnlaw.com); Richard Levin (rlevin@jenner.com); hyland@sewkis.com; Weitman, Michael (weitman@sewkis.com); anthony.paccione@kattenlaw.com; 'brian.muldrew@kattenlaw.com' (brian.muldrew@kattenlaw.com); Berman, Scott M.; 'rknuts@shertremonte.com' (rknuts@shertremonte.com); Beckerlegge, Robertson D.; Choi, David  
**Subject:** RE: Picard v. UBS (Luxalpha/LIF)

Gabe and Marshall,

Following our conversations, and in light of the procedural issues raised, we have decided to withdraw all of our pending Hague requests in the Luxalpha and LIF cases. We have instructed our Luxembourg counsel to write to the Luxembourg court and cancel next week's hearing. We will provide you with a copy of that letter and confirmation of the termination of the Luxembourg proceedings. This is without prejudice to our right to submit future requests pursuant to the Hague Convention. We believe this addresses the concerns you have raised and we trust puts an end to this dispute.

Regards,  
Ben

**Benjamin D. Pergament**  
Partner

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**From:** Pergament, Benjamin D.  
**Sent:** Monday, November 06, 2017 5:15 PM  
**To:** 'Herrmann, Gabriel' <GHerrmann@gibsondunn.com>; King, Marshall R. <MKing@gibsondunn.com>  
**Cc:** Warshavsky, Oren J. <owarshavsky@bakerlaw.com>; Zeballos, Gonzalo S. <gzeballos@bakerlaw.com>; North, Geoffrey A <gnorth@bakerlaw.com>; Hall, Thomas J. <THall@chadbourne.com>; Brett S. Moore (bsmoore@pbnlaw.com) <bsmoore@pbnlaw.com>; Richard Levin (rlevin@jenner.com) <rlevin@jenner.com>; hyland@sewkis.com; Weitman, Michael (weitman@sewkis.com) <weitman@sewkis.com>; anthony.paccione@kattenlaw.com; 'brian.muldrew@kattenlaw.com' (brian.muldrew@kattenlaw.com) <brian.muldrew@kattenlaw.com>; Berman, Scott M. <sberman@fklaw.com>; 'rknuts@shertremonte.com' (rknuts@shertremonte.com) <rknuts@shertremonte.com>; Beckerlegge, Robertson D. <rbeckerlegge@bakerlaw.com>; Choi, David <dchoi@bakerlaw.com>  
**Subject:** RE: Picard v. UBS (Luxalpha/LIF)

Ok. We will call you then.

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**From:** Herrmann, Gabriel [<mailto:GHerrmann@gibsondunn.com>]

**Sent:** Monday, November 06, 2017 5:13 PM

**To:** Pergament, Benjamin D. <[bpergament@bakerlaw.com](mailto:bpergament@bakerlaw.com)>; King, Marshall R. <[MKing@gibsondunn.com](mailto:MKing@gibsondunn.com)>

**Cc:** Warshavsky, Oren J. <[owarshavsky@bakerlaw.com](mailto:owarshavsky@bakerlaw.com)>; Zeballos, Gonzalo S. <[gzeballos@bakerlaw.com](mailto:gzeballos@bakerlaw.com)>; North, Geoffrey A <[gnorth@bakerlaw.com](mailto:gnorth@bakerlaw.com)>; Hall, Thomas J. <[THall@chadbournelaw.com](mailto:THall@chadbournelaw.com)>; Brett S. Moore ([bsmoore@pbnlaw.com](mailto:bsmoore@pbnlaw.com)) <[bsmoore@pbnlaw.com](mailto:bsmoore@pbnlaw.com)>; Richard Levin ([rlevin@jenner.com](mailto:rlevin@jenner.com)) <[rlevin@jenner.com](mailto:rlevin@jenner.com)>; [hyland@sewkis.com](mailto:hyland@sewkis.com); Weitman, Michael ([weitman@sewkis.com](mailto:weitman@sewkis.com)) <[weitman@sewkis.com](mailto:weitman@sewkis.com)>; [anthony.paccione@kattenlaw.com](mailto:anthony.paccione@kattenlaw.com); 'brian.muldrew@kattenlaw.com' ([brian.muldrew@kattenlaw.com](mailto:brian.muldrew@kattenlaw.com)) <[brian.muldrew@kattenlaw.com](mailto:brian.muldrew@kattenlaw.com)>; Berman, Scott M. <[sberman@fklaw.com](mailto:sberman@fklaw.com)>; 'rknuts@shertremonte.com' ([rknuts@shertremonte.com](mailto:rknuts@shertremonte.com)) <[rknuts@shertremonte.com](mailto:rknuts@shertremonte.com)>; Beckerlegge, Robertson D. <[rbeckerlegge@bakerlaw.com](mailto:rbeckerlegge@bakerlaw.com)>; Choi, David <[dchoi@bakerlaw.com](mailto:dchoi@bakerlaw.com)>

**Subject:** RE: Picard v. UBS (Luxalpha/LIF)

How about 2:00 p.m.? Thanks.

**Gabriel Herrmann**

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**From:** Pergament, Benjamin D. [<mailto:bpergament@bakerlaw.com>]

**Sent:** Monday, November 6, 2017 4:27 PM

**To:** Herrmann, Gabriel <[GHerrmann@gibsondunn.com](mailto:GHerrmann@gibsondunn.com)>; King, Marshall R. <[MKing@gibsondunn.com](mailto:MKing@gibsondunn.com)>

**Cc:** Warshavsky, Oren J. <[owarshavsky@bakerlaw.com](mailto:owarshavsky@bakerlaw.com)>; Zeballos, Gonzalo S. <[gzeballos@bakerlaw.com](mailto:gzeballos@bakerlaw.com)>; North, Geoffrey A <[gnorth@bakerlaw.com](mailto:gnorth@bakerlaw.com)>; Hall, Thomas J. <[THall@chadbournelaw.com](mailto:THall@chadbournelaw.com)>; Brett S. Moore ([bsmoore@pbnlaw.com](mailto:bsmoore@pbnlaw.com)) <[bsmoore@pbnlaw.com](mailto:bsmoore@pbnlaw.com)>; Richard Levin ([rlevin@jenner.com](mailto:rlevin@jenner.com)) <[rlevin@jenner.com](mailto:rlevin@jenner.com)>; [hyland@sewkis.com](mailto:hyland@sewkis.com); Weitman, Michael ([weitman@sewkis.com](mailto:weitman@sewkis.com)) <[weitman@sewkis.com](mailto:weitman@sewkis.com)>; [anthony.paccione@kattenlaw.com](mailto:anthony.paccione@kattenlaw.com); 'brian.muldrew@kattenlaw.com' ([brian.muldrew@kattenlaw.com](mailto:brian.muldrew@kattenlaw.com)) <[brian.muldrew@kattenlaw.com](mailto:brian.muldrew@kattenlaw.com)>; Berman, Scott M. <[sberman@fklaw.com](mailto:sberman@fklaw.com)>; 'rknuts@shertremonte.com' ([rknuts@shertremonte.com](mailto:rknuts@shertremonte.com)) <[rknuts@shertremonte.com](mailto:rknuts@shertremonte.com)>; Beckerlegge, Robertson D. <[rbeckerlegge@bakerlaw.com](mailto:rbeckerlegge@bakerlaw.com)>; Choi, David <[dchoi@bakerlaw.com](mailto:dchoi@bakerlaw.com)>

**Subject:** RE: Picard v. UBS (Luxalpha/LIF)

Gabe,

We are speaking with our Luxembourg counsel tomorrow morning, and after that we will have a better sense of how we want to proceed. Let's set a time to talk tomorrow afternoon. When is good for you?

Regards,  
Ben

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**From:** Herrmann, Gabriel [<mailto:GHerrmann@gibsondunn.com>]

**Sent:** Monday, November 06, 2017 11:50 AM

**To:** Pergament, Benjamin D. <[bpergament@bakerlaw.com](mailto:bpergament@bakerlaw.com)>; King, Marshall R. <[MKing@gibsondunn.com](mailto:MKing@gibsondunn.com)>

**Cc:** Warshavsky, Oren J. <[owarshavsky@bakerlaw.com](mailto:owarshavsky@bakerlaw.com)>; Zeballos, Gonzalo S. <[gzeballos@bakerlaw.com](mailto:gzeballos@bakerlaw.com)>; North, Geoffrey A <[gnorth@bakerlaw.com](mailto:gnorth@bakerlaw.com)>; Hall, Thomas J. <[THall@chadbournelaw.com](mailto:THall@chadbournelaw.com)>; Brett S. Moore

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Choi, David <[dchoi@bakerlaw.com](mailto:dchoi@bakerlaw.com)>

**Subject:** RE: Picard v. UBS (Luxalpha/LIF)

Ben:

Following up on our conversation last week, could you please let us know by the end of the day today whether the Trustee has come to a view as to whether it makes sense to meet and confer regarding a potential negotiated submission that might resolve the UBS entities' concerns about the Trustee's Hague requests.

Thanks.

-gabe

**Gabriel Herrmann**

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**From:** Pergament, Benjamin D. [<mailto:bpergament@bakerlaw.com>]  
**Sent:** Thursday, October 26, 2017 7:17 PM  
**To:** King, Marshall R. <[MKing@gibsondunn.com](mailto:MKing@gibsondunn.com)>  
**Cc:** Warshavsky, Oren J. <[owarshavsky@bakerlaw.com](mailto:owarshavsky@bakerlaw.com)>; Zeballos, Gonzalo S. <[gzeballos@bakerlaw.com](mailto:gzeballos@bakerlaw.com)>; North, Geoffrey A <[gnorth@bakerlaw.com](mailto:gnorth@bakerlaw.com)>; Hall, Thomas J. <[THall@chadbournelaw.com](mailto:THall@chadbournelaw.com)>; Brett S. Moore ([bsmoore@pbnlaw.com](mailto:bsmoore@pbnlaw.com)) <[bsmoore@pbnlaw.com](mailto:bsmoore@pbnlaw.com)>; Richard Levin ([rlevin@jenner.com](mailto:rlevin@jenner.com)) <[rlevin@jenner.com](mailto:rlevin@jenner.com)>; [hyland@sewkis.com](mailto:hyland@sewkis.com); Weitman, Michael ([weitman@sewkis.com](mailto:weitman@sewkis.com)) <[weitman@sewkis.com](mailto:weitman@sewkis.com)>; [anthony.paccione@kattenlaw.com](mailto:anthony.paccione@kattenlaw.com); 'brian.muldrew@kattenlaw.com' ([brian.muldrew@kattenlaw.com](mailto:brian.muldrew@kattenlaw.com)) <[brian.muldrew@kattenlaw.com](mailto:brian.muldrew@kattenlaw.com)>; Berman, Scott M. <[sberman@fklaw.com](mailto:sberman@fklaw.com)>; 'rknuts@shertremonte.com' ([rknuts@shertremonte.com](mailto:rknuts@shertremonte.com)) <[rknuts@shertremonte.com](mailto:rknuts@shertremonte.com)>; Herrmann, Gabriel <[GHerrmann@gibsondunn.com](mailto:GHerrmann@gibsondunn.com)>; Beckerlegge, Robertson D. <[rbeckerlegge@bakerlaw.com](mailto:rbeckerlegge@bakerlaw.com)>; Choi, David <[dchoi@bakerlaw.com](mailto:dchoi@bakerlaw.com)>  
**Subject:** Re: Picard v. UBS (Luxalpha/LIF)

Marshall,

I tried calling you earlier so we can get a better understanding of your position ahead of any meet and confer, and to determine whether such a meeting is even necessary.

As an initial matter, we do not understand your reference to Rule 28, which applies to depositions. Because our request is limited to documents, Rule 28 does not seem to have any application here.

As regards the procedure we followed, our reading of the International Discovery Order was that it permitted us to submit Hague requests to Judge Bernstein without the need for a formal application to the court requesting transmission of those requests to the relevant Central Authority. It is our good faith understanding that the parties had all agreed to streamline this process so that these requests could be more efficiently processed, hence the stipulated order. In any event, given that any responding party would have the right under local law to move to object, modify, or quash any discovery request, it is difficult to see how any responding party could be prejudiced by the following of this procedure. Indeed, as you are no doubt aware, with respect to the Hague requests at issue here, a hearing has been scheduled at which the responding party will have a full and fair opportunity to be heard on any objection.

We further note that had UBS been a third party when we submitted our letter of request to the Court, it would not have been entitled to notice of that submission even absent the stipulated order, nor would UBS have had any standing to file an objection. Indeed, as a non-party to the present action, we do not believe that UBS has any standing to object to the Hague requests at issue here.

With respect to the change in status of the UBS entities from parties to non-parties, we note that the requests were submitted to Judge Bernstein prior to the issuance of the extraterritoriality decision and prior to the dismissal of those entities. We will of course update the Luxembourg authorities as to the status of the US

proceedings at that November hearing. However, we maintain that the documents requested are still relevant to the Trustee's claims against the remaining parties.

We are happy to discuss this further informally if you are available (your assistant indicated you were out of town), but to the extent you feel a meet and confer is still necessary, we are available anytime on Monday after [11:00 am](#).

Regards,

Ben

**Benjamin D. Pergament**  
Partner

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On Oct 25, 2017, at 7:05 PM, King, Marshall R. <[MKing@gibsondunn.com](mailto:MKing@gibsondunn.com)> wrote:

Ben:

I was not questioning your ability to conduct document discovery via the Hague Convention, but rather your having applied to the Court for issuance of specific letters of request, without notice to us (or, given what you say, to any other party), in contravention of Fed. R. Civ. P. 28(b)(2) (made applicable by Fed. R. Bankr. P. 7028). You made a substantive request to Judge Bernstein, seeking judicial action, without notifying any of the parties. That was improper. The letters that we have seen are, moreover, misleading to the foreign authorities, in that they describe claims and parties that have been dismissed, and seek documents that are not relevant. If we had timely notice, we could have raised these issues with the Court. And, as I understand your position, you are still refusing to provide us copies of the materials that you submitted on an ex parte basis to Judge Bernstein.

Please let us know if you are available to meet and confer on this issue on Friday, before we seek relief from the Court. If Friday doesn't work, please propose another time.

Marshall R. King

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**From:** Pergament, Benjamin D. [<mailto:bpergament@bakerlaw.com>]

**Sent:** Wednesday, October 25, 2017 6:12 PM

**To:** King, Marshall R. <[MKing@gibsondunn.com](mailto:MKing@gibsondunn.com)>; Warshavsky, Oren J. <[owarshavsky@bakerlaw.com](mailto:owarshavsky@bakerlaw.com)>; Zeballos, Gonzalo S. <[gzeballos@bakerlaw.com](mailto:gzeballos@bakerlaw.com)>; North, Geoffrey A <[gnorth@bakerlaw.com](mailto:gnorth@bakerlaw.com)>; Hall, Thomas J. <[THall@chadbourne.com](mailto:THall@chadbourne.com)>; 'Brett S. Moore ([bsmoore@pbnlaw.com](mailto:bsmoore@pbnlaw.com))' <[bsmoore@pbnlaw.com](mailto:bsmoore@pbnlaw.com)>; Richard Levin ([rlevin@jenner.com](mailto:rlevin@jenner.com)) <[rlevin@jenner.com](mailto:rlevin@jenner.com)>; 'hyland@sewkis.com' <[hyland@sewkis.com](mailto:hyland@sewkis.com)>; Weitman, Michael ([weitman@sewkis.com](mailto:weitman@sewkis.com)) <[weitman@sewkis.com](mailto:weitman@sewkis.com)>; 'anthony.paccione@kattenlaw.com' <[anthony.paccione@kattenlaw.com](mailto:anthony.paccione@kattenlaw.com)>; 'brian.muldrew@kattenlaw.com' ([brian.muldrew@kattenlaw.com](mailto:brian.muldrew@kattenlaw.com)) <[brian.muldrew@kattenlaw.com](mailto:brian.muldrew@kattenlaw.com)>; Berman, Scott M. <[sberman@fklaw.com](mailto:sberman@fklaw.com)>; 'rknuts@shertremonte.com' ([rknuts@shertremonte.com](mailto:rknuts@shertremonte.com)) <[rknuts@shertremonte.com](mailto:rknuts@shertremonte.com)>

**Cc:** Herrmann, Gabriel <[GHerrmann@gibsondunn.com](mailto:GHerrmann@gibsondunn.com)>; Beckerlegge, Robertson D. <[rbeckerlegge@bakerlaw.com](mailto:rbeckerlegge@bakerlaw.com)>; Choi, David <[dchoi@bakerlaw.com](mailto:dchoi@bakerlaw.com)>

**Subject:** RE: Picard v. UBS (Luxalpha/LIF)

Marshall,

Please see the attached letter.

Regards,  
Ben

**Benjamin D. Pergament**  
Partner

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**From:** King, Marshall R. [<mailto:MKing@gibsondunn.com>]

**Sent:** Monday, October 23, 2017 11:25 AM

**To:** Pergament, Benjamin D. <[bpergament@bakerlaw.com](mailto:bpergament@bakerlaw.com)>; Warshavsky, Oren J. <[owarshavsky@bakerlaw.com](mailto:owarshavsky@bakerlaw.com)>; Zeballos, Gonzalo S. <[gzeballos@bakerlaw.com](mailto:gzeballos@bakerlaw.com)>; North, Geoffrey A <[gnorth@bakerlaw.com](mailto:gnorth@bakerlaw.com)>; Hall, Thomas J. <[THall@chadbourne.com](mailto:THall@chadbourne.com)>; 'Brett S. Moore ([bsmoore@pbnlaw.com](mailto:bsmoore@pbnlaw.com))' <[bsmoore@pbnlaw.com](mailto:bsmoore@pbnlaw.com)>; Richard Levin ([rlevin@jenner.com](mailto:rlevin@jenner.com)) <[rlevin@jenner.com](mailto:rlevin@jenner.com)>; 'hyland@sewkis.com' <[hyland@sewkis.com](mailto:hyland@sewkis.com)>; Weitman, Michael ([weitman@sewkis.com](mailto:weitman@sewkis.com)) <[weitman@sewkis.com](mailto:weitman@sewkis.com)>; 'anthony.paccione@kattenlaw.com' <[anthony.paccione@kattenlaw.com](mailto:anthony.paccione@kattenlaw.com)>; 'brian.muldrew@kattenlaw.com' ([brian.muldrew@kattenlaw.com](mailto:brian.muldrew@kattenlaw.com)) <[brian.muldrew@kattenlaw.com](mailto:brian.muldrew@kattenlaw.com)>; Berman, Scott M. <[sberman@fklaw.com](mailto:sberman@fklaw.com)>; 'rknuts@shertremonte.com' ([rknuts@shertremonte.com](mailto:rknuts@shertremonte.com)) <[rknuts@shertremonte.com](mailto:rknuts@shertremonte.com)>

Cc: Herrmann, Gabriel <[GHerrmann@gibsondunn.com](mailto:GHerrmann@gibsondunn.com)>

Subject: Picard v. UBS (Luxalpha/LIF)

Please see the attached letter.

**Marshall R. King**

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